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Attorney for Defendant Billings Clinic

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

LEIGH ANN LUNDVALL,

Civil Action No. \_\_\_\_\_

Plaintiff,

vs.

**NOTICE OF REMOVAL  
(28 U.S.C. § 1441)**

BILLINGS CLINIC,

Defendant.

1. Defendant Billings Clinic (“Billings Clinic”), is the Defendant in a civil action filed by Leigh Ann Lundvall (“Plaintiff”) as Cause No. DV-21-0396 in the Montana Thirteenth Judicial District Court, Yellowstone County, Montana. Pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446, Billings Clinic removes that action to the Federal District Court for the District of Montana, which is the judicial district in which the action is pending.

2. On April 5, 2021, Plaintiff filed a Complaint and Demand for Jury Trial in Cause No. DV-21-0396. In her Complaint, Plaintiff alleges that she was employed by Billings Clinic, and that she suffers from anxiety and depression and has been diagnosed as having a substance abuse disorder related to alcohol. Complaint at ¶¶ 11-12. Plaintiff further alleges that, after she received a misdemeanor traffic citation involving the use of alcohol in February 2020, Billings Clinic discharged her from employment. Complaint at ¶¶ 28, 35, 40, 41. Plaintiff has brought the following claims in her Complaint regarding her discharge from employment at Billings Clinic: 1) disability discrimination under the Montana Human Rights Act (“MHRA”), Mont. Code Ann. § 49-2-101, et seq.; 2) disability discrimination under the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101, et seq.; 3) disability discrimination under the Rehabilitation Act of 1973 (“Rehabilitation Act”), 29 U.S.C. § 791, et seq.; and 4) wrongful discharge under the Montana Wrongful Discharge from Employment Act (“WDEA”), Mont. Code Ann. § 39-2-901, et seq.

3. Removal of this case is based upon federal question pursuant to 28 U.S.C. § 1331. The federal district courts have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. See 28 U.S.C. § 1331. This Court has original jurisdiction over the subject matter of this action under 28 U.S.C. § 1331, because it is an action arising under the laws of the

United States, specifically Plaintiff's claims for disability discrimination under the ADA and the Rehabilitation Act.

4. Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over Plaintiff's claims under the MHRA and the WDEA because those claims are so related to Plaintiff's claims under the ADA and the Rehabilitation Act that they form part of the same case or controversy under Article III of the U.S. Constitution.

5. Venue lies in the District of Montana, Billings Division, because the state action was filed in a state court for which this judicial district has jurisdiction. See 28 U.S.C. § 1441(a).

6. On April 4, 2021, Michele Braukmann, counsel for Plaintiff, sent an email message to counsel for Billings Clinic in which she stated that she had filed a Complaint on behalf of Plaintiff against Billings Clinic in the Thirteenth Judicial District Court, Yellowstone County, State of Montana, and asked counsel for Billings Clinic if he could acknowledge service on Billings Clinic's behalf. Ms. Braukmann also stated that if he was able to do so, she would send him a copy of the Complaint and an Acknowledgement of Service the following day, April 5, 2021.

7. On April 5, 2021, counsel for Billings Clinic sent an email message to Ms. Braukmann in response, stating that he is authorized to accept service of the

Complaint on behalf of Billings Clinic. That same day, Ms. Braukmann responded via email message, stating that she would provide a copy of the Complaint and Notice of Acknowledgement of Service that week. As of the date of this filing, Ms. Braukmann has not sent a copy of the Complaint, Summons, or Acknowledgement of Service to counsel for Billings Clinic.

8. On April 28, 2021, counsel for Billings Clinic obtained a copy of the Complaint from the Thirteenth Judicial District Court, Yellowstone County, State of Montana. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty (30) days after receipt by Billings Clinic of a copy of the Complaint.

9. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all state court pleadings filed to date in this action are attached hereto as Exhibit A and incorporated herein by reference for all purposes.

10. Pursuant to 28 U.S.C. § 1446(d), Billings Clinic will give written notice of the filing of this Notice of Removal to all parties and will file a copy of the Notice of Removal with the Thirteenth Judicial District, Yellowstone County, State of Montana.

WHEREFORE, for the reasons set forth above, Billings Clinic requests that the above-described action pending in the Thirteenth Judicial District, Yellowstone County, State of Montana, be removed to this United States District Court for the District of Montana, Billings Division, and that this Court proceed with the

handling of this action as if it had been originally filed herein, and that further proceedings in the state court action be stayed.

DATED: April 30, 2021.

BUTLER LAW, LLC

/s/ Edward J. Butler

Attorney for Defendant Billings Clinic

**CERTIFICATE OF SERVICE**

I hereby certify that on this 30th day of April, 2021, the foregoing document was sent by email message and deposited in the U.S. Mail, first class postage prepaid, addressed to the following:

Michelle L. Braukmann  
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Attorney for Plaintiff

/s/ Edward J. Butler

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